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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,666	04/27/2000	Dean J. Blackketter	MS1-413US	4370
22801	7590	02/10/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/560,666	Applicant(s) BLACKKETTER ET AL.	
	Examiner Hunter B. Lonsberry	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/30/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14,36-47 and 51-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 51-53 is/are allowed.
- 6) ☐ Claim(s) 1-14,36,38-46 and 54-59 is/are rejected.
- 7) ☐ Claim(s) 37,39 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

U.S. Patent 6,177,931 is relied upon for teaching tracking of interactive content viewed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14, 36, 38, and 40-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,600,496 to Wagner in view of U.S. Patent 5,850,249 to Massetti and U.S. Patent 6,177,931 to Alexander.

Regarding claims 1-3, 5, 36, 45, and 46, Wagner discloses a method comprising:

Displaying a TV program with an associated channel (column 3, lines 7-49, figures 5-6),

Displaying an interactive TV mode indicator if the displayed TV program supports an interactive TV mode (figure 6, animated character 41, column 6, lines 18-43);

Activating the mode in response to a user request (column 6, lines 44-55)

Opening an interactive window (figure 7, window 45, column 6, lines 44-55, column 7, lines 9-16).

Wagner fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated.

Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers regarding what programs and services users are watching and using.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Wagner to include the status features of Massetti, thus providing information to advertisers regarding what programs and services users are watching and using.

The combination of Wagner and Massetti fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated.

Alexander discloses a user monitoring system that records when a user accesses interactive content, the time, and the corresponding channel (column 18, lines 33-53, column 28, lines 30-67), this data is then analyzed to determine user characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner and Massetti to utilize the monitoring of Alexander in order to analyze user characteristics to provide targeted advertising.

Regarding claims 4, 11, Alexander discloses a modem (separate tuner) is used to retrieve interactive information (column 8, lines 44-49).

Regarding claims 6 and 13, Wagner discloses an icon in figures 6 and 7, which notifies a user of additional content.

Wagner, Massetti and Alexander do not disclose removing an indicator after a set time period.

The examiner takes official notice that removing an indicator after a set time period, such as EPG program information which is overlaid over video and fades after a few seconds to remove a distraction, is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner, Alexander and Massetti to remove an

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indicator after a set time, in order to allow an entire video image to be seen thus removing a distraction.

Regarding claims 7 and 14, Wagner discloses in Figure 2, a memory device 18 and processing control circuitry 15 which run the software to implement display of an icon (column 4, lines 28-44). Massetti discloses that the monitoring results are stored/updated on a home computer 82 (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67).

Regarding claims 8-10, Wagner discloses a method comprising:

Displaying a TV program with an associated channel (column 3, lines 7-49, figures 5-6),

Displaying an online TV mode indicator (figure 6, animated character 41, column 6, lines 30-37), if the displayed TV program supports an online TV mode (figure 6, column 6, lines 18-43);

Activating the mode in response to a user request (column 6, lines 44-55)

Opening an interactive window (figure 7, window 45, column 6, lines 44-55, column 7, lines 9-16).

Wagner fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated and providing online videos.

Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers regarding what programs and services users are watching and using.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Wagner to include the status features of Massetti, thus providing information to advertisers regarding what programs and services users are watching and using.

The combination of Wagner and Massetti fails to disclose updating a channel status list for interactive programs, including the time, identifying all channels for which the interactive mode has been activated, and providing an online video mode.

Alexander discloses a user monitoring system that records when a user accesses interactive content, the time, and the corresponding channel (column 18, lines 33-53, column 28, lines 30-67), interactive content may include videos (column 34, lines 10-18), this data is then analyzed to determine user characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner and Massetti to utilize the monitoring of Alexander in order to analyze user characteristics to provide target advertising.

Regarding claim 12, Alexander discloses that the video may be stored on the World Wide Web (column 34, lines 10-18). Wagner discloses that webpages may be opened (figure 7, column 6, lines 44-55).

Regarding claim 38, Wagner discloses in Figure 2, a TV tuner 16 and communication device 17, which may be a modem or DSL adapter (column 3, line 50-column 4, line 21).

Regarding claims 40-44, Wagner discloses an interactive entertainment system (Figure 2), with a processor 15 and memory 18 (Figures 6,7, column 3, lines 7-27, column 6, lines 18-55).

Wagner's storage device inherently receives updates from the processor to add and delete television channels from the interactive mode, as the processor must inform the storage device that the interactive mode has been entered or exited, thus beginning or ending display of data which is stored in the storage device's buffer and received from modem/tuner 100.

Wagner does not disclose updating a list to indicate that an interactive program is being viewed.

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Wagner fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated.

Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers regarding what programs and services users are watching and using.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Wagner to include the status features of Massetti, thus providing information to advertisers regarding what programs and services users are watching and using.

The combination of Wagner and Massetti fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated.

Alexander discloses a user monitoring system that records when a user accesses interactive content, the time, and the corresponding channel (column 18, lines 33-53, column 28, lines 30-67), this data is then analyzed to determine user

characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner and Massetti to utilize the monitoring of Alexander in order to analyze user characteristics to provide target advertising.

3. Claims 54-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,850,249 to Massetti in view of U.S. Patent 6,177,931 to Alexander.

Regarding claims 54-59, Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers as to what users are watching.

Massetti fails to disclose recording if the channel in an interactive mode, a time the user entered the interactive mode, an address associated with the interactive mode, if the channel is in an online mode, a time when the channel entered an online mode, and an address corresponding to the online mode.

Alexander discloses a user monitoring system that records when a user accesses interactive or online content, the time, the website visited or advertising

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content watched and the corresponding channel (column 18, lines 33-53, column 28, lines 30-67), this data is then analyzed to determine user characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Massetti to utilize the online and interactive monitoring features of Alexander in order to analyze user characteristics to provide target advertising.

Allowable Subject Matter

4. Claims 37, 39, 47 and 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,034,902 to Steinmann: Method and System for Ascertaining the Consumption Habits of a Test Population.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



CHRIS GRANT
PRIMARY EXAMINER